

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Schweizer/Berg/Brosius Property.

DEPARTMENT: County Attorney's Office

DIVISION: Property Acquisition

AUTHORIZED BY: Lola Pfeil

CONTACT: Jackie Royal

EXT: 7256

MOTION/RECOMMENDATION:

Approve and execute purchase agreement relating to Parcel Nos. 747A and 747B of the County Road 15 (Monroe Road) improvement project, located at 731 Monroe Road, Sanford, Florida, for \$4,000.00, including attorney's fees and costs.

District 5 Brenda Carey

BACKGROUND:

See attached.

ATTACHMENTS:

1. Schweizer/Berg/Brosius Property

| |
|---|
| Additionally Reviewed By: No additional reviews |
|---|



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

THROUGH: Matthew G. Minter, Deputy County Attorney *MGM*

FROM: Neil Newton, Major Project Acquisition Coordinator *NN*

CONCUR: Pam Hastings, Administrative Manager/Public Works Department *PgH*
David V. Nichols, P.E., Principal Engineer/Engineering *DVN 00005801*
6-21-07

DATE: June 19, 2007

SUBJECT: Purchase Agreement Authorization
Owners: Garth Schwiezer, Kathryn Berg and Beverly Brosius
Parcel Nos. 747A and 747B
County Road 15 (Monroe Road)

This memorandum requests authorization by the Board of County Commissioners (BCC) and execution by the Chairman of a purchase agreement for Parcel Nos. 747A and 747B. The parcels are required for the County Road 15 improvement project. The purchase price is \$4,000.00, inclusive of fees and costs incurred by the property owner.

The subject parcels are included in the eminent domain action filed by the County as Seminole County vs. Richard O'Dell, Sr., Case No. 2007-CA-1455-13-K. An order of taking hearing will occur on July 26, 2007, at which time a Stipulated Final Judgment will be entered by the Court upon approval by the Board of this proposed settlement.

I THE PROPERTY

A. Location Data

The property is located along the east side of County Road 15 (Monroe Road) north of Church Street. The site is currently zoned A-1, Agriculture District by Seminole County with a future land use of Higher Intensity Planned Development.

1. Location Map (Exhibit A);
2. Sketch (Exhibit B); and
3. Purchase Agreement (Exhibit C)

B. Address

731 Monroe Road
Sanford, FL 32771

C. Description

The parent tract is a 1.046 acre, single family residential site (residence is vacant).

II AUTHORITY TO ACQUIRE

The BCC adopted Resolution No. 2006-R-114 on May 9, 2006, authorizing the acquisition of Parcel Nos. 747A and 747B, and finding that the improvements are necessary and serve a County and public purpose and are in the best interests of the citizens of Seminole County.

III ACQUISITION/REMAINDER

The taking for the roadway project consists of: (1) Parcel 747A, a temporary construction easement, rectangular in shape, containing 272 square feet along the west boundary of the subject property, improved by sod and a dirt driveway; and (2) Parcel 747B, a temporary construction easement, rectangular in shape, containing 335 square feet along the west boundary of the subject property, improved by sod.

There is no fee taking of the property, therefore the remaining fee ownership will remain 1.046 acre.

IV APPRAISED VALUE

The County's appraised value amount is \$800.00 for Parcel No. 747A and \$1,000.00 for Parcel 747B. Florida Realty Analysts, Inc., prepared the County's appraisal and the County's MAI designated staff appraiser approved the report.

V BINDING OFFER/NEGOTIATIONS

On December 12, 2006, the BCC authorized a binding written offer of \$1,000.00 for Parcel No. 747A and \$1,200.00 for Parcel No. 747B for an aggregate total of \$2,200.00. Thereafter, County staff, through its acquisition consultant, negotiated this proposed purchase agreement settlement to purchase the needed property for \$4,000.00 for both temporary construction easement parcels. The negotiated settlement allows Seminole County use of the temporary construction easements for a three (3) year period from the commencement of construction of the road improvement project or completion of the project, whichever occurs first.

VI SETTLEMENT ANALYSIS/COST AVOIDANCE

This proposed settlement amount, although \$1,800.00 more than the County's binding written offer aggregate amount, is reasonable under the circumstances inherent in the condemnation process. If this property proceeds to condemnation, litigation costs and the preparation cost of an appraisal report for the property owner will have to be paid by the County. These costs would likely exceed the \$1,800.00 in additional settlement funds proposed to be paid.

The cooperative purchase of the property through this proposed settlement is in the best interests of the citizens of Seminole County.

VII RECOMMENDATION

County staff recommends that the BCC authorize settlement in the amount of \$4,000.00, inclusive of interest, fees and costs.

NN/lpk

Attachments:

Location Map (Exhibit A)

Sketch (Exhibit B)

Purchase Agreement (Exhibit C)

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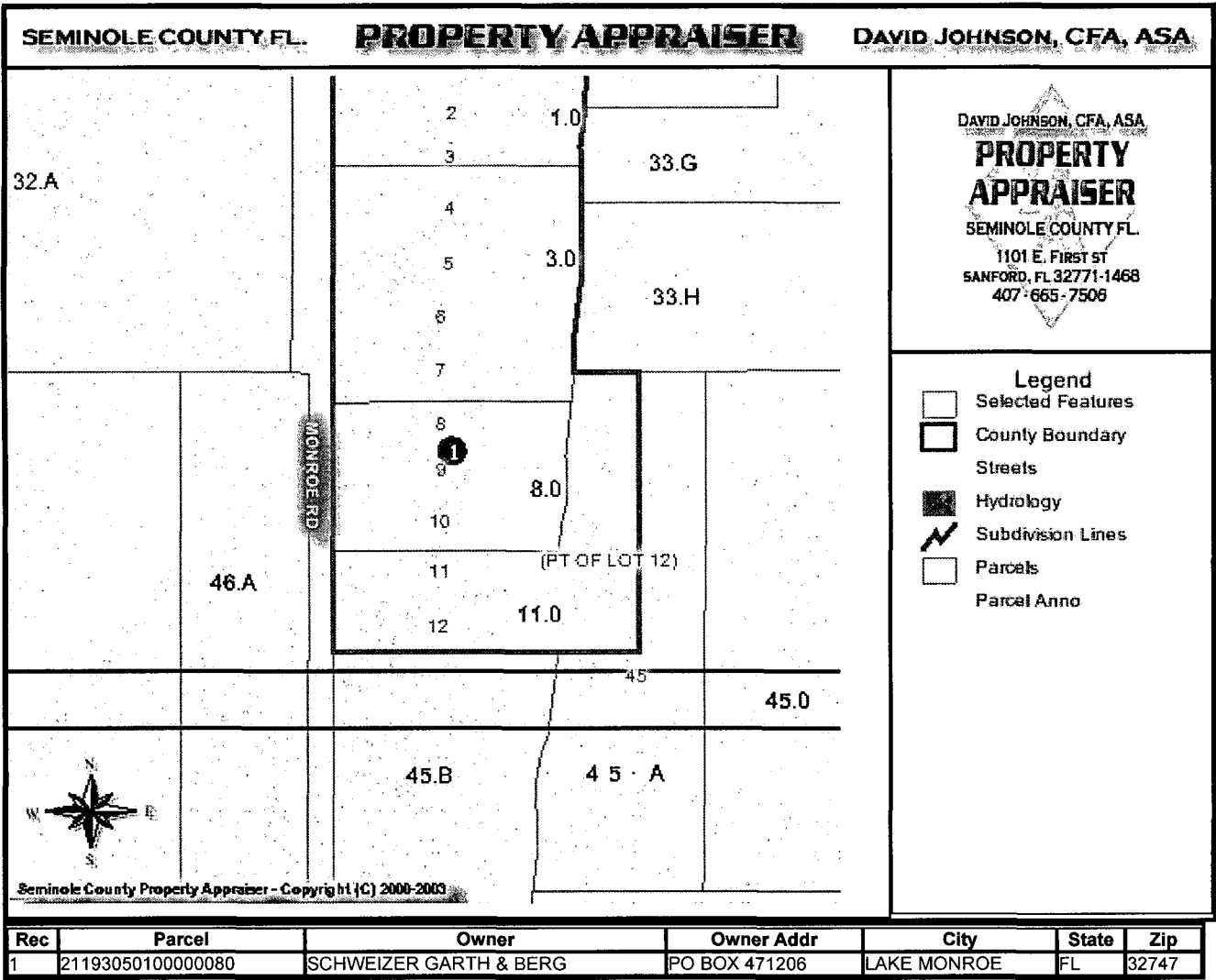
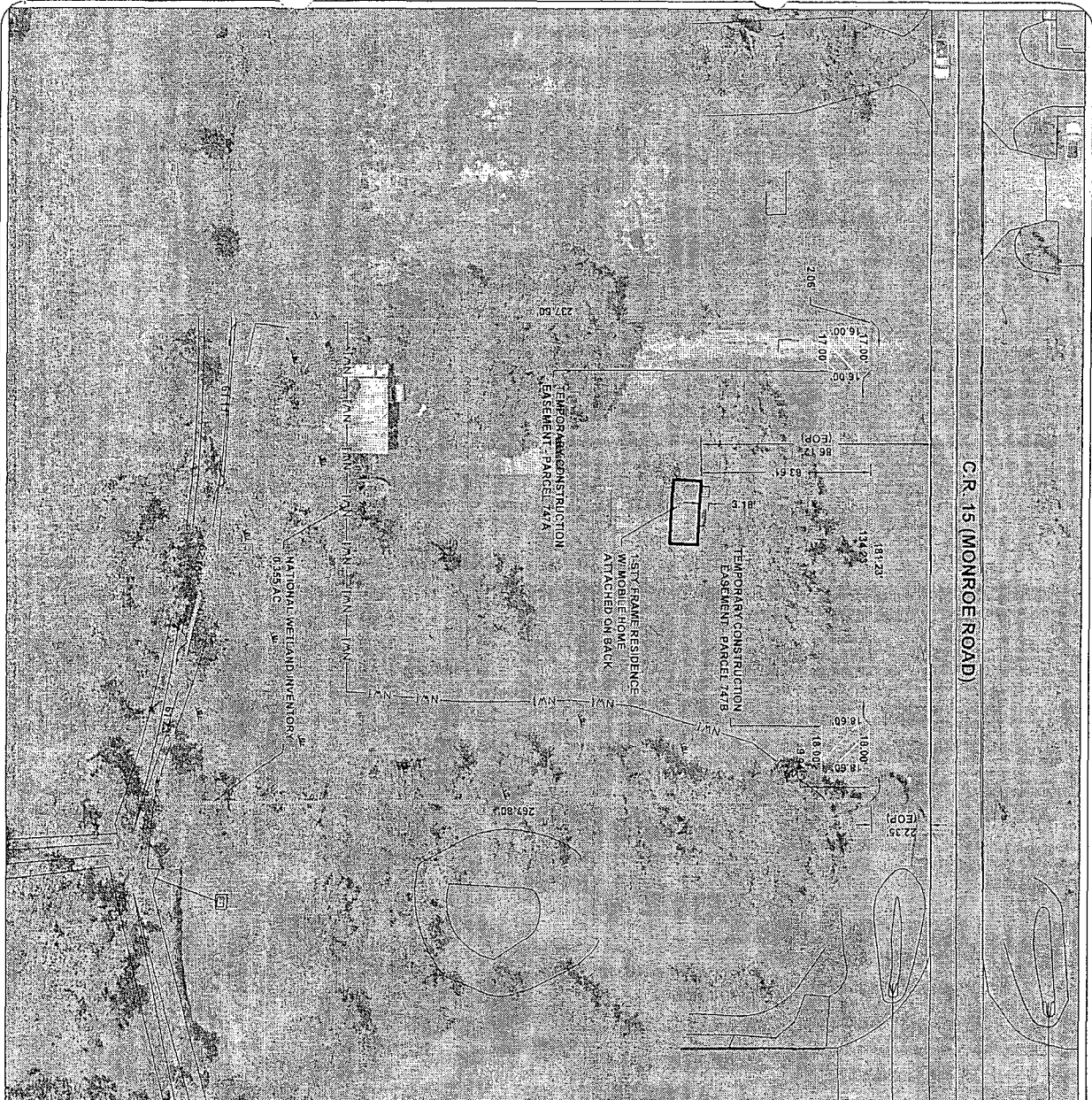


EXHIBIT A

EXHIBIT B

R:\PROJ\2006\A060352.00 C.R. 15 (Upsale Road)\Planm



PARENT TRACT
 AREA OF TCE - PARCEL 747A 1,046 AC
 AREA OF TCE - PARCEL 747B 272 SF
 REMAINDER TRACT 335 SF
 1,046 AC

PROPERTY LINE

AREA OF TCE
 PARCEL 747A

AREA OF TCE
 PARCEL 747B

20 0 20 40
 Feet
 Scale

PARENT TRACT : WITH TAKING SHOWN

PARCEL 747A/B
 C.R. 15 / MONROE ROAD
 SEMINOLE CO., FLORIDA



gai consultants
 518 East South Street
 Orlando, Florida 32801
 407-743-6936

SHEET 2
 PROJECT NUMBER
 A060352.00
 FILE NAME: 060352.00.dwg

| SCALE AS SHOWN | |
|----------------|---------------------|
| DRAWN: JHE | APPROVED: JMS |
| CHECKED: DED | APP. DATE: 10/24/06 |

**PURCHASE AGREEMENT
TEMPORARY CONSTRUCTION EASEMENT**STATE OF FLORIDA)
COUNTY OF SEMINOLE)

THIS AGREEMENT is made and entered into this 4th day of June, 2007, by and between GARTH SCHWEIZER, KATHRYN BERG and BEVERLY BROSIUS, whose mailing address is P.O. Box 471206, Lake Monroe, Florida 32747-1206, hereinafter referred to as "OWNER," and SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as "COUNTY."

WITNESSETH:

WHEREAS, the COUNTY requires the hereinafter described property for construction and maintenance of an authorized road project in Seminole County;

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained OWNER hereby agrees to execute a Temporary Construction Easement and COUNTY hereby agrees to purchase the Temporary Construction Easement described below upon the following terms and conditions:

I. LEGAL DESCRIPTIONS

**PARCEL NOS. 747A/747B
TEMPORARY CONSTRUCTION EASEMENT**

COUNTY ROAD 15**PART A**

That portion of Lot 10, Birds of Paradise, according to the plat thereof, as recorded in Plat Book 9, Page 98, Public Records of Seminole County, Florida, being more particularly described as follows:

Commence at the Southwest corner of Lot 10, said Birds of Paradise; thence run North 00°19'59" West, along the West line of said Lot 10, a distance of 2.06 feet for a **POINT OF BEGINNING**; thence continue North 00°19'59" West, along said West lot line, a distance of 17.00 feet; thence departing said West lot line, run North 89°40'01" East, a distance of 16.00 feet; thence run South 00°19'59" East, a distance of 17.00 feet; thence run South 89°40'01" West, a distance of 16.00 feet to the **POINT OF BEGINNING**.

Containing 272 square feet, more or less.

And Also:

PART B

That portion of Lot 8, Birds of Paradise, according to the plat thereof, as recorded in Plat Book 9, Page 98, Public Records of Seminole County, Florida, being more particularly described as follows:

Commence at the Northwest corner of Lot 8, said Birds of Paradise; thence run South 00°19'59" East, along the West line of said Lot 8, a distance of 9.94 feet for a **POINT OF BEGINNING**; thence departing said West lot line, run North 89°40'01" East, a distance of 18.60 feet; thence run South 00°19'59" East, a distance of 18.00 feet; thence run South 89°40'01" West, a distance of 18.60 to the aforementioned West lot line; thence run North 00°19'59" West, along said West lot line, a distance of 18.00 feet to the **POINT OF BEGINNING**.

Containing 335 square feet, more or less.

Parcel I.D. Number: 21-19-30-501-0000-0080

II. PURCHASE PRICE

OWNER agrees to sell and convey the above-described property by Temporary Construction Easement on Parcel Nos. 747A and 747B unto COUNTY for the sum of FOUR THOUSAND AND NO/100 DOLLARS (\$4,000.00). The above amount includes all compensation due as a result of this acquisition to the OWNER for any reason and for any account whatsoever. OWNER agrees to execute a Temporary Construction Easement for a period of three (3) years from date of commencement of construction of the County Road 15 project. See Exhibit "A" attached, Temporary Construction Easement.

III. CONDITIONS

(a) COUNTY shall pay to the OWNER the sum as described in Item II above, upon the proper execution and delivery of all the instruments required to complete the above purchase and sale to the designated closing agent. The OWNER agrees to close within fourteen (14) days of notice by the COUNTY or the COUNTY's closing agent that a closing is ready to occur.

(b) The OWNER at the expense of the OWNER prior to closing shall remove any and all encroachments existing upon the required property other than those improvements included in the purchase price.

(c) The instrument(s) of conveyance to be utilized at closing shall, in addition to containing all other common law covenants through the use of a temporary construction easement, also include the covenant of further assurances.

(d) OWNER warrants that there are no facts known to OWNER materially affecting the value of the properties which are not readily observable by COUNTY or which have not been disclosed to COUNTY.

(e) The instrument(s) of conveyance to be utilized at closing shall, in addition to containing all other common law covenants through the use of a temporary construction easement, also include the covenant of further assurances.

(f) The OWNER shall fully comply with Section 286.23, Florida Statutes, to the extent that said statute is applicable.

(g) In the event that COUNTY subsequently abandons this project after execution of this Agreement, but before closing, this Agreement shall be null and void.

(h) In the event that difficulties arise as to clearing title sufficient to consummate a closing of this Purchase Agreement or difficulties occur in the issuance of a title insurance commitment which is acceptable to the COUNTY, this Agreement shall survive the filing of any eminent domain action by the COUNTY and shall serve as a joint stipulation regarding all valuation issues and fees and costs matters in any condemnation proceeding initiated by the COUNTY relating to the real property herein described. The OWNER agrees that, in accordance with any request made by the COUNTY, the OWNER shall execute any and all instruments, pleadings, documents and agreements upon litigation reflecting the full settlement as set forth herein. The OWNER agrees not to oppose the COUNTY's condemnation proceedings in any way. The OWNER may however, assert OWNER's rights against other claimants in apportionment proceedings.

(i) The COUNTY shall be solely responsible for all of COUNTY activities conducted on the property. OWNER shall not be considered an agent or employee of COUNTY for any reason whatsoever on account of the Agreement.

(j) The OWNER states that the OWNER has not engaged in any action that would create a conflict of interest in the performance of OWNER's obligations under this Agreement with the COUNTY that would violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government.

(k) Grantee agrees to perform construction as noted in the project specifications attached hereto as composite Exhibit "B" as said plans relate to Parcel No. 747A and 747B.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in their respective name on the date first above written.

WITNESSES:

Walter M. McKay
SIGNATURE

Heather McKay
PRINT NAME

Garth Schweizer
SIGNATURE

Garth L. Schweizer
PRINT NAME

Walter M. McKay
SIGNATURE

Heather McKay
PRINT NAME

Garth Schweizer
SIGNATURE

Garth L. Schweizer
PRINT NAME

Walter M. McKay
SIGNATURE

Heather McKay
PRINT NAME

Garth Schweizer
SIGNATURE

Garth L. Schweizer
PRINT NAME

PROPERTY OWNER:

Garth Schweizer
GARTH SCHWEIZER

Kathryn Berg
KATHRYN BERG

Beverly Brosius
BEVERLY BROSIOUS

ADDRESS: P.O. Box 471206
Debarry, FL 32713

[ATTESTATION CONTINUED ON FOLLOWING PAGE]

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA**

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
CARLTON HENLEY, Chairman

Date: _____

For the use and reliance of
Seminole County only. Ap-
proved as to form and legal
sufficiency.

As authorized for execution by the Board of
of County Commissioners at its _____,
20____, regular meeting.

County Attorney

NN/lpk

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EXHIBIT "A"

PARCEL NO. 747A/747B
TEMPORARY CONSTRUCTION EASEMENT
COUNTY ROAD 15
GARTH SCHWEIZER, KATHRYN BERG, BEVERLY BROSIUS

THIS INSTRUMENT PREPARED BY:
NEIL NEWTON, MAJOR PROJECT ACQUISITION COORDINATOR
COUNTY ATTORNEY'S OFFICE
1101 E. FIRST STREET
SANFORD, FL 32771

TEMPORARY CONSTRUCTION EASEMENT

THIS EASEMENT is made and entered into this ____ day of _____, 2007, between GARTH SCHWEIZER, KATHRYN BERG and BEVERLY BROSIUS, whose mailing address is P.O. Box 471206, Lake Monroe, Florida 32747-1206, hereinafter referred to as GRANTOR, and SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as GRANTEE.

WITNESSETH: That the GRANTOR, for and in consideration of the sum of ONE AND NO/100 DOLLAR (\$1.00), and other valuable considerations paid, receipt of which is hereby acknowledged, does hereby grant unto the GRANTEE permission, to be exercised during the period of construction of the County Road 15 road improvement project, to enter upon the following described lands:

PARCEL NO. 747A/747B
TEMPORARY CONSTRUCTION EASEMENT

COUNTY ROAD 15

PART A

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Containing 335 square feet, more or less.

Parcel I.D. Number: 21-19-30-501-0000-0080

for the purpose of tying in and harmonizing the elevation of said property with the construction to be undertaken by the GRANTEE on the County Road 15 road improvement project.

THIS EASEMENT is granted upon the condition that the sloping and/or grading upon the above land shall not extend beyond the limits outlined above, and that all grading or sloping shall conform to all existing structural improvements within the limits designated. Additionally, as to tying in, harmonizing, construction and all other uses to which the property is put by the GRANTEE, at, or upon the completion of work provided herein, the easement area will be restored by the GRANTEE, to the conditions prior to this easement, except for any improvements that may be constructed by the GRANTEE in connection with the use of this easement.

THIS EASEMENT shall expire upon completion of this transportation project, but not later than three (3) years from date of commencement of construction of the County Road 15 road improvement project; provided, however, that the GRANTEE covenants that existing structures and drainage flow ways and patterns will not be altered or impeded by the GRANTEE in any way. GRANTEE agrees to perform construction as noted in the project specifications attached hereto as composite Exhibit "B" as said plans relate to Parcel No. 747A and 747B.

GRANTOR covenants that GRANTOR is lawfully seized and possessed of the real estate above described and has the right to convey this easement. GRANTOR agrees to provide further assurances to the GRANTEE if necessary.

WITNESSES:

SIGNATURE

PRINT NAME

SIGNATURE

PRINT NAME

SIGNATURE

PRINT NAME

SIGNATURE

PRINT NAME

SIGNATURE

PRINT NAME

SIGNATURE

PRINT NAME

PROPERTY OWNER:

GARTH SCHWEIZER

KATHRYN BERG

BEVERLY BROSIUS

ADDRESS: P.O. Box 471206
Debary, FL 32713

[ATTESTATION CONTINUED ON FOLLOWING PAGE]

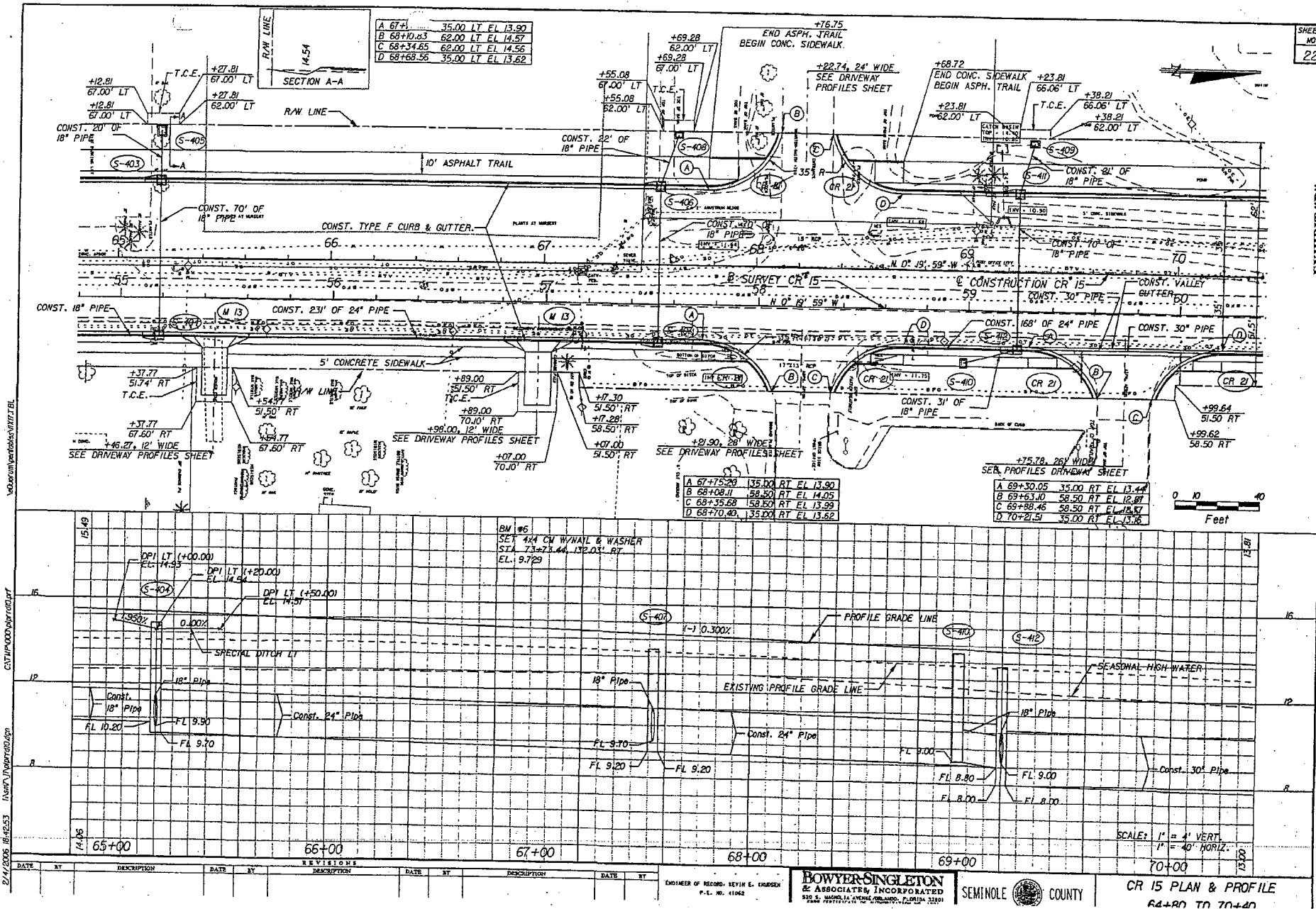
EXHIBIT "A"

STATE OF _____
COUNTY OF _____

I HEREBY CERTIFY that, on this _____ day of _____, 200____, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Garth Schweizer, Kathryn Berg and Beverly Brosius, who are personally known to me or who have produced _____ as identification. They have acknowledged before me that they have executed the foregoing instrument.

Print Name _____
Notary Public in and for the County
and State Aforementioned
My commission expires: _____

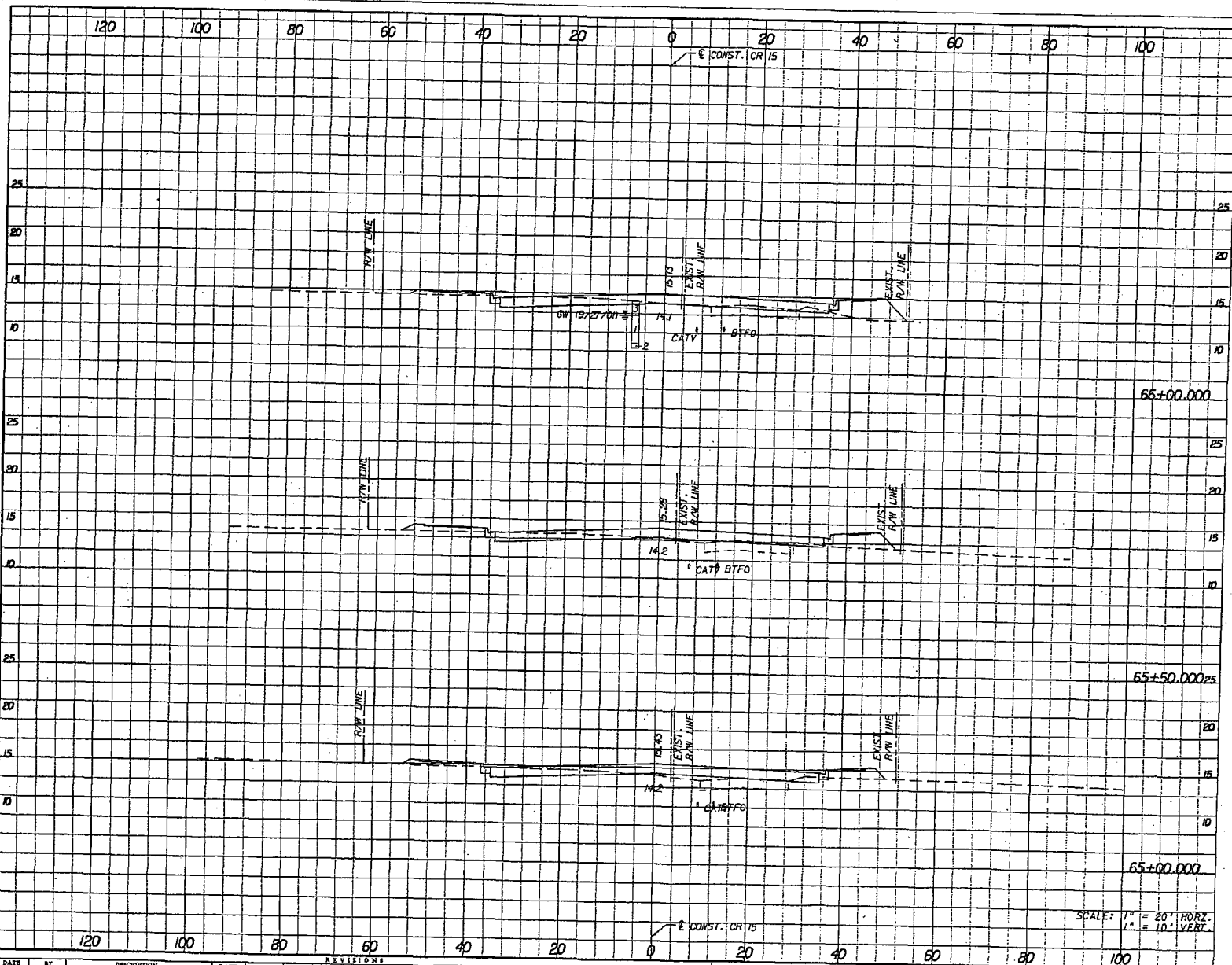
SAMPLE



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2/1/2006 11:50:08



| SHEET NO. 92 | | | | | |
|--------------|---|-----------|---|------------|---|
| Subsoil | | Reg. Exc. | | Embankment | |
| A | V | A | V | A | V |
| 0 | | 31 | | 30 | |
| 0 | | 49 | | 56 | |
| 0 | | 22 | | 30 | |
| 0 | | 41 | | 49 | |
| 0 | | 22 | | 23 | |
| 0 | | 53 | | 44 | |

SCALE: 1" = 20' HORIZ.
1" = 10' VERT.

| DATE | BY | DESCRIPTION | DATE | BY | DESCRIPTION | DATE | BY | DESCRIPTION | DATE | BY | DESCRIPTION |
|------|----|-------------|------|----|-------------|------|----|-------------|------|----|-------------|
| | | | | | | | | | | | |

2/1/2006 1635-49 enTransp\en\Jobs\GIS\Unfiled\CR15\1000\cr15\cr15.ctb



| SHEET NO. 93 | | | | | |
|--------------|---|-----------|---|------------|---|
| Subsoil | | Reg. Exc. | | Embankment | |
| A | V | A | V | A | V |
| 0 | | 65 | | 26 | |
| 0 | | 109 | | 40 | |
| 0 | | 53 | | 18 | |
| 0 | | 87 | | 37 | |
| 0 | | 41 | | 21 | |
| 0 | | 67 | | 48 | |

SCALE: 1" = 20' HORIZ.
1" = 10' VERT.

BOWYER SINGLETON & ASSOCIATES, INCORPORATED
702 S. JACKSON AVE. SUITE 400, ORLANDO, FLORIDA 32801

SEMINOLE COUNTY

CROSS SECTIONS C.R. 15

ENGINEER OF RECORD: KEVIN E. KHOSRA
P.E. NO. 41052

